

Service Date: April 19, 1994

FINAL ORDER NO. 6296  
DEPARTMENT OF PUBLIC SERVICE REGULATION  
MONTANA PUBLIC SERVICE COMMISSION  
1701 Prospect Avenue, P.O. Box 202601  
Helena, Montana 59620-2601

IN THE MATTER OF Michael F. and	)	
Donald F. Byrnes, a partnership dba 5 Dot	)	Docket No. T-93.146.PCN
Transfer, Ronan, Montana, the applica-	)	Order No. 6296
tion for a Montana Intrastate Certificate	)	
of Public Convenience and Necessity.	)	

The Commission, having taken evidence and being fully advised in the premises, makes the following findings, conclusions and order:

FINDINGS OF FACT

1. On October 25, 1993, Michael F. and Donald F. Byrnes, a partnership dba 5 Dot Transfer, 2224 North Foothills Drive, Ronan, Montana 59864, filed an application with the Montana Public Service Commission under Title 69, MCA, for a Certificate of Public Convenience and Necessity authorizing transportation of the following:

Class C or Class D - Domestic septage including septic sludge between all points and places in the following counties: Lincoln, Flathead, Lake, Sanders, Missoula and Mineral.

2. In accordance with Section 69-23-321, MCA, as amended, this matter was noticed to the public November 5, 1993. That notice said in pertinent part:

If no written protests are received by November 25, 1993, a hearing may not be held and a final order may be issued in this Docket. If a protest is received, a hearing will be scheduled. Individual notice of the hearing will be given only to Protestants and Applicant.

The application included affidavits of support.

3. A protest was filed by Browning Ferris Industries, Inc., Missoula,

Montana.

4. Notice of Public Hearing was issued January 6, 1994, with hearing scheduled for February 2, 1994, in Polson, Montana. The hearing was vacated January 26, 1994, after parties advised the Commission that stipulations were pending.

5. On March 29, 1994, applicant and protestant filed a stipulation with the Commission agreeing to an amended grant of authority. That stipulation is incorporated into the Order granting authority herein.

6. The record of this application is available for inspection at the Public Service Commission Office, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601.

#### CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding.

2. The Commission afforded all parties interested in this proceeding proper notice and an opportunity to participate.

3. Public Convenience and Necessity require a grant of the authority sought by the Applicant.

#### ORDER

NOW THEREFORE, at a session of the Public Service Commission, Department of Public Service Regulation of the State of Montana, held in its offices at 1701 Prospect Avenue, Helena, Montana, on the 4th day of April, 1994, there being present a quorum of Commissioners, there came regularly before the Commission for final action the matters and things in Docket No. T-94.146.PCN, and the Commission being fully advised in the premises;

IT IS ORDERED by the Commission that the application of **Michael F. and Donald F. Byrnes, a partnership, dba 5 Dot Transfer, Ronan, Montana** for a Certificate of Public Convenience and Necessity IS GRANTED to the following extent:

Class D - Solid and liquid sludge from sewer treatment plants, septic sludge, and septage as a waste or recyclable between all points and places in Lincoln, Flathead, Lake, Sanders, Missoula and Mineral Counties. Limitations: Transportation of other waste and other recyclables is prohibited.

IT IS FURTHER ORDERED that a full, true and correct copy of this order be sent forthwith by first class mail to the applicant and all parties herein.

THE FOREGOING ORDER was adopted by the Department of Public Service Regulation of the State of Montana, Public Service Commission, IN OPEN SESSION at Helena, Montana, this 4th day of April, 1994, by a vote of 4 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

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BOB ROWE, Vice Chairman

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DAVE FISHER, Commissioner

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NANCY McCAFFREE, Commissioner

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DANNY OBERG, Commissioner

ATTEST:

Kathlene M. Anderson  
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.